

Batka, Allan

From: Theodore Pagano, P.E., P.G. <tpagano@mipotash.com>
Sent: Friday, January 08, 2016 4:39 PM
To: Roy, Stephen; Perenchio, Lisa
Cc: Batka, Allan; Micham, Ross; Hansen, Janette
Subject: Re: Bonding

Allan,

Thank-you for your call today. You have informed me that your team will allow either:

- (1) The State of Michigan Bond, or
- (2) A fully funded Trust;

and will not allow (3) an unfunded trust as per CFR 40.D Ch 144.63(3)(a)(i), which is applicable only to Class I Hazardous wells.

Thank-you for the clarification.

Sincerely,

Ted Pagano

On Tue, Dec 15, 2015 at 10:43 AM, Theodore Pagano, P.E., P.G. <tpagano@mipotash.com> wrote:
Hello Team,

Its been a couple of weeks, and therefore was wondering if MPC proposed path forward as per CFR 40.D Ch 144.63(3)(a)(i) is acceptable?

Sincerely,

Ted Pagano

On Wed, Dec 2, 2015 at 9:26 AM, Roy, Stephen <roy.stephen@epa.gov> wrote:

Hi, Ted,

Allan is out today and Ross Micham, the staff member most involved with financial questions, is out of the office this week. We'll get back to you after we get together and discuss it.

Steve

From: Theodore Pagano, P.E., P.G. [mailto:tpagano@mipotash.com]
Sent: Tuesday, December 01, 2015 5:41 PM
To: Roy, Stephen <roy.stephen@epa.gov>; Batka, Allan <batka.allan@epa.gov>
Subject: Bonding

Hello Steve and Alan,

Alan and I were talking, and MPC needs some clarification as per your direction as it concerns our propositioned bonding framework. The MOU with Michigan and Region V, principally covered Class II Wells, so as to initially avoid duplicate bonding, *only for a period*, MPC had taken the following route; proposing to establish a Trust and fund the Trust as per CFR 40.D Ch 144.63(3)(a)(i); but volunteering to fund the Trust earlier than required.

MPC propositioned the same for the Class III wells, but were rejected under the completeness review. MPC assumed that this was because CFR 40.D Ch 144.63(3)(a)(i) was only applicable to Class I wells.

Our application language was as follows:

"The Trust will be funded, as per Section 3.0 of the EPA Trust Agreement prior to the commencement of any operations or the drilling of any of the propositioned wellbores; which is earlier than CFR 40.D Ch 144.63(3)(a)(i), which requires Trust funding prior to the injection of fluids. Further, the fund will be funded in whole prior to drilling operations commence; whereby CFR 40.D Ch 144.63(3)(a)(i), allows funding in part over the life of the well.

Further, as per CFR 40.D Ch 144.65(a), all the proposed wells occur in the State of Michigan, whereby, the State has dual jurisdiction via the Michigan Department of Environmental Quality, "MDEQ," who requires their own plugging and abandonment assurance before the issuance of a permit; thereby enabling the EPA regional administrator to consider, not only the above described Trust, but also the MDEQ Surety P&A Bond required before drilling commences.

As the required funding and assurance needs increase to adequately provide plug and abandonment assurance for each of the propositioned wellbores, the Trust funds will be increased as per the Trust Agreement."

We are talking about roughly 1,000,000 of bonding capacity between our Class I and Class III wells since Michigan's Blanket is 440,000. This is quite high by comparative standards provided (BLM Nation Blanket 150,000, Most states at 60,000 blanket). Would you mind helping me determining the most intelligent path forward?

Sincerely,

Ted Pagano

General Manager